IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

WP(C).No. 29467 of 2007(G)

PETITIONER:

SURENDRAN C., AGED 46 YEARS,
S/O.CHAKRAPANI, PUTHUVAL PUTHEN VEEDU, TC 12/578,
ELAMKAVU LANE, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM, REP. BY POWER OF ATTORNEY
HOLDER, MRS.USHA, AGED 43, W/O.SURENDRAN, PUTHUVAL
PUTHEN VEEDU, TC 12/578, ELAMKAVU LANE, TVM.

BY ADV. SRI.B.S.SIVAJI
SRI.V.R.SWAMINATHAN

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SECRETARY,
MINISTRY OF LOCAL ADMINISTRATION DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

3. THE SECRETARY,
CORPORATION OF THIRUVANANTHAPURAM,
THIRUVANANTHAPURAM.

4. THE CHIEF TOWN PLANNER,
TOWN PLANNING OFFICE, KOTTARATHIL BUILDINGS,
PALAYAM, THIRUVANANTHAPURAM.

BY G.P. SRI. MUHAMMED ANZAR
S.C. SRI.N.NANDAKUMARA MENON

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 29467 of 2007

Dated this the 22nd day of October , 2007

JUDGMENT

The grievance of the petitioner is that though he was given a building permit by the Thiruvananthapuram Corporation, the Corporation by Ext.P3, ordered stoppage of all the constructions on the basis of the building permit on the reason that the property in question is covered by the Trivandrum Medical College Area Development Scheme. I had occasion to consider the cases raising similar grounds and Ext.P4 judgment is a judgment in one of such cases. Today, when the matter came up for consideration, I have heard the submissions of Sri. B.S.Sivaji, the learned counsel for the petitioner and Sri.N.Nandakumara Menon, the learned Standing Counsel for the Trivandrum Corporation. Sri.Nandakumara Menon suggested that the petitioner can be directed to file a representation referring to Ext.P4 and the Corporation can be directed to take a fresh decision in the light of Ext.P4. The learned counsel for the petitioner would draw my attention to my own judgment in W.P.(C) No.6790/2007 in which case grievance was similar to the grievance of the present petitioner.

2. Having considered the rival submissions addressed at the bar, I am of the view that there is justification for granting the relief which was granted to the petitioners in W.P.(C) No.6790/2007, whose grievance was similar. Accordingly, I quash Ext.P3 and direct the Corporation to pass fresh orders on the building permit application submitted by the petitioner favourably if the plan is otherwise in order on condition that the petitioner submits an undertaking in the form of an affidavit stating clearly that if a notification under Section 4 (1) of the Land Acquisition Act is promulgated within one year of issuance of the building permit, the petitioner will surrender the property including the building constructed without claiming any compensation for the building. It is made clear that even thereafter if the Corporation or the Government wants to acquire the property for any genuine public purpose, this judgment will not stand in the way of doing so and under such an event the respondents will give adequate compensation to the petitioner. Fresh orders on the building permit application will be passed by the 3rd respondent at the earliest and at any rate within three weeks of receiving a copy of this judgment.

PIUS C. KURIAKOSE,
JUDGE.

Dpk